BEFORE THE
FEDERAL MARITIME COMMISSION

RETROSPECTIVE REVIEW OF EXISTING RULES

COMMENTS OF OCEAN COMMON CARRIERS

Pursuant to the invitation of the Federal Maritime Commission ("FMC" or "Commission"), the carrier agreements listed in Exhibit A hereto and their member lines (together, the "Carriers"), through undersigned counsel, hereby submit their comments and suggestions on how to improve the Commission's existing regulations and programs.

As persons subject to the Commission's jurisdiction, the Carriers are familiar with the Commission's regulations and are directly and substantially affected by those regulations and programs, as well as changes thereto.

Introduction

In the comments that follow, the Carriers suggest a number of revisions to existing Commission regulations. These suggestions are intended to make the Commission's programs and regulations more efficient and less burdensome. The suggested changes would generally benefit both shippers and carriers alike. In many cases, the suggestions are made with respect to regulations that were adopted some time ago, and which the Carriers believe

need to be revised to reflect subsequent legal, practical or technological developments. The comments are grouped by program area.

A. Service Contracts and Tariffs

The Commission's regulations implementing the tariff publication and service contract filing requirements of the Shipping Act of 1984, as amended (the "Shipping Act"), set forth in 46 C.F.R. Parts 520 and 530, respectively, constitute one of the primary regulatory obligations of ocean common carriers insofar as the Commission is concerned. Accordingly, the Carriers respectfully suggest the following revisions, which are intended to streamline these requirements.

1. Filing of Service Contract Amendments, 46 C.F.R. §530.8(a)

The filing of service contract amendments is the regulatory obligation imposed on carriers that results in the largest administrative burden for both carriers and their customers. The Carriers believe that some relief is needed in this area.

According to the annual reports of the FMC, in FY1999, 29,453 service contracts and 61,374 service contract amendments were filed with the FMC. In contrast, in FY2010, 45,342 service contracts and 350,310 amendments were filed; i.e., almost 960 service contract amendments per calendar day. In the experience of the Carriers, the vast majority of these amendments are for minor revisions to commercial terms, such as a revised rate or the addition of a new origin/destination or commodity.

The Shipping Act itself does not expressly require carriers to file service contract amendments. Rather, the amendment filing requirement has been adopted by the Commission in 46 C.F.R. §530.8(a), presumably because it is considered necessary to enforce compliance with other provisions of the Shipping Act (such as section 41104(2)(A), which prohibits the provision of liner service other than in accordance with the terms of filed service contracts or published tariffs). The requirement that the amendment be filed before cargo is moved has also been established by the Commission in 46 C.F.R. §530.8(a).

While the Carriers understand the rationale for filing, relief is required to reduce the administrative burden associated with the filing requirement. The Carriers recommend that 46 C.F.R. §530.8(a) be amended to permit the parties to a service contract to implement a service contract amendment immediately, provided that the amendment is entered into by the parties and filed within thirty (30) days of the earlier of the date agreement on the amendment is reached or the carrier receives the cargo to which the amendment is applicable.[1]

Shippers will often request and receive a rate proposal from a carrier, and tender cargo to the carrier pursuant to the terms of that proposal, without first formally accepting the proposal. Thus, the carrier and shipper often agree on a rate without memorializing that agreement in a form that can be filed as

[1] This would not apply to an amendment extending the duration of a service contract agreed upon in the last 30 days of the contract term, which would still be required to be filed prior to the expiration of the then-current contract term.

an amendment. The Carriers' suggestion would enable shippers and carriers to apply agreed-upon terms immediately and thus to conclude the many minor amendments they need to continue to do business without disrupting or delaying that business. It would also reduce the filing burden on carriers by enabling them to aggregate several contract changes together in a single amendment. In addition, this change would significantly reduce administrative time, burden and costs by allowing the parties to a contract to utilize a rate agreed upon without the requirement that such rate be individually filed before the cargo is received. The Commission will still receive the amended rates, but in what is in effect a monthly filing.

The revised regulation envisaged by the Carriers would require that each amendment filed with the FMC note the effective date of each change to the contract made by the amendment, so the Commission could determine the date from which any given rate or term was to apply. The Commission would also still have the authority to request service contract records, which would include the evidence that the parties reached agreement on a particular term as of a particular date. These two requirements would enable the FMC to continue to carry out its enforcement functions.

Thus, under this proposal, the Commission would still receive all service contract amendments, but within 30 days of the date they are agreed upon or the date on which the cargo that is the subject of the amendment is received by the carrier, rather than prior to implementation. The Commission's enforcement capability would not be diminished, as it would still be able to

determine the contract terms applicable to any given shipment. However, the administrative burden on the carriers and their customers of processing numerous amendments would be greatly reduced.

2. Service Contract Correction Requests, 46 C.F.R. §530.10(c)

The current procedure for correcting errors in service contracts was adopted in 1989, and has remained largely unchanged since that time. Thus, the current correction procedure pre-dates both service contract amendments (which were only permitted beginning in 1992) and confidential, individual service contracts introduced by the Ocean Shipping Reform Act of 1998 ("OSRA"). Given the explosion in the number of contract and amendment filings that has occurred since the entry into effect of OSRA (see figures cited in the preceding section of these comments), the Carriers believe that the current correction procedures are ill-suited to today's contract filing environment and should be revised.

Six revisions to the existing regulation would greatly increase the utility and reduce the burden of the current procedures. They would also better effectuate the intent of shippers and carriers in contractual relationships.

First, the Carriers recommend that the Commission adopt a regulation which would provide carriers a limited "grace period" of 30 days after contract filing during which a typographical or clerical error in a service contract filing could be corrected without filing a formal amendment or correction request.

Occasionally, as the result of human or systems errors, a term in an electronic service contract filing fails to reflect the terms actually agreed upon

by the carrier and its customer. Where such an error is discovered promptly (i.e., not more than 30 days) after filing, the Carriers believe that they should be permitted to correct the terms of the filed contract to match the service contract without filing a formal correction request or paying a filing fee.

Such a filing would be given a special designation (such as "conforming amendment") when submitted to the Commission so that the Commission staff would be aware of the nature and purpose of the filing. Conforming amendments would not be executed by the parties, but would be a ministerial act by the carrier to conform the terms of the electronic contract filing to the actual service contract. Carriers filing conforming amendments would, upon the request of the staff, be required to produce evidence that the term(s) changed by the conforming amendment were actually agreed upon by the shipper party to the service contract.

Such a procedure would reduce the number of formal correction requests that would need to be filed while facilitating application of the terms agreed upon by the parties.

Second, the time period in which a correction request may be filed should be extended from 45 to 180 days. Given the number of service contracts and amendments being handled by each carrier, as well as the size and complexity of today's contracts, it is not unusual for an error in a contract to go undiscovered for more than 45 days. Extending the period during which a correction request can be filed to the same period during which a waiver of the collection of tariff charges can be filed under 46 U.S.C. §40503, and

permitting that correction to apply retroactively, merely gives both parties the benefit of the bargain which they originally negotiated. This change would not favor either party to the contract, but would merely facilitate implementation of the intent of both parties. In today's environment, the Carriers see no legal or policy reason for limiting the availability of correction requests to a period of 45 days after a contract or amendment is filed.

Third, it should be clarified that the procedure is available to correct the effective date of a service contract or amendment that is not timely filed due to clerical or administrative error. From time to time, a contract or amendment is not filed at the time originally intended due to simple human error. The Commission has held that this type of error is not one that can be addressed under the current regulations governing service contract correction requests. See, *China Ocean Shipping Co. -- Petition for Declaratory Order and Exemption and Request to Correct Error in Service Contract*, 25 S.R.R. 558 (FMC 1989).

The rationale for the Commission's decision in *China Ocean Shipping* is subject to question. The two reasons given for denying a correction request in that case were that (1) the failure to file was not an error in an essential term of the contract and (2) that the correction request procedure applies only to filed contracts. This rationale is based on the language of the regulation, and is of dubious validity given subsequent legal developments.

In 1992, subsequent to the cases cited above, the Commission ruled that a legally enforceable contract can and does exist even if that contract is not filed with the FMC. *Vinmar v. China Ocean Shipping Co.*, 26 S.R.R. 420 (FMC

1992). If the parties to a service contract that the Commission considers to be legally valid do not timely file it due to a clerical or administrative error, the Commission's service contract correction regulations prevent them from applying the terms of that contract. This contradictory approach to service contracts should be remedied.

Under the current regulation, any filing oversight is extremely difficult to remedy. Cargo is often rated and transported under the terms of an unfiled service contract or amendment that both parties assumed was filed. When the failure to file is discovered, the parties are forced to choose between two unattractive options. One option is to do nothing and risk civil penalties for moving cargo at unfiled rates in violation of the Shipping Act. The other option is to require the shipper to pay the otherwise applicable tariff rate with respect to shipments which moved during the time the contract or amendment was not filed, and then attempt to make the shipper whole through some lawful means, such as by temporarily reducing contract rates going forward so that the shipper recoups the amounts it paid for the shipments that were rated under the tariff. This requires additional contract amendments and administrative burdens.

Subsequent revisions to the Shipping Act also undermine the rationale of the current regulations. In *Vinmar*, the Commission stated that:

> The central purpose for the filing requirement of Section 8(c) was to make the essential terms of contract carriage publicly available to other similarly situated shippers.

26 S.R.R. at 423. In OSRA, which introduced confidential service contracting, Congress eliminated the so-called "me too" right and reduced the number of essential terms that are required to be made public. Thus, permitting the correction of an effective date as a result of a failure to file does not have the same implications for other shippers as it did at the time these regulations were adopted.

Moreover, OSRA represents a move away from traditional common carriage toward a confidential, individual contracting system. One of the changes in the law that best reflects this approach is 46 U.S.C. §41109(d), which prohibits the Commission from ordering a person to pay the difference between the amount billed and agreed upon with a carrier in writing and the amount set forth in a tariff or service contract. In the view of the Carriers, it makes little sense to expose service contract parties to potential civil penalties for not filing when Congress has said that insofar as the commercial relationship of the parties is concerned, the parties' actual written commercial agreement should prevail over formalistic regulatory requirements.

In light of the foregoing changes in the law, parties that have entered into and agreed upon the terms of a contract should not be compelled to apply other terms simply because the contract was not filed as a result of a clerical or administrative error. Yet, the Commission's current service contract correction regulations do just that.

Given the increase in the use of service contracts, the ability to amend contracts, the pro-contract approach adopted in OSRA, Commission precedent

which post-dates the existing correction regulations and the difficulties that the current regulations impose on the industry, the Commission should revisit its regulations and revise them to permit corrections of the effective date of a contract or amendment that is not timely filed due to clerical or administrative error.

This would be a far simpler and less burdensome way to allow the parties to honor the terms of their service contracts than requiring the shipper to pay the tariff rate and then amending the contract to compensate the shipper for those higher payments. The Commission could require a showing that the failure to file was a good faith error and not an attempt to file retroactively in order to prevent any abuse of such a procedure.

Fourth, the requirement set forth in 46 C.F.R. §530.10(c)(5), requiring a statement of concurrence from the other party, should be revised. One element of a correction request is a statement of concurrence from the other party to the service contract. When the error in question negatively impacts the other party, it is of course quick to provide consent. However, when the error favors the other party, it can sometimes refuse to provide such consent, meaning that the error could not be corrected and the party seeking the correction is forced to live with a contract on terms other than those that had been agreed. This is inconsistent with basic contract law, with 46 U.S.C. §41109(d), with the Commission's decision in *Vinmar,* and with basic notions of fairness. The Carriers respectfully request that the Commission recognize this problem and

eliminate it in the future by revising 46 C.F.R. §530.10(c)(5) to read along the following lines:

> A brief statement from the other party to the contract concurring in the request for correction or, if the other party refuses to consent, evidence that the other party had previously agreed to the corrected term. The inability to obtain the consent of the other party or the denial of a request for correction shall not preclude the party requesting the correction from seeking other relief in accordance with the terms of the relevant service contract.

The foregoing revision would facilitate implementation of the contract terms agreed upon by the parties, and preclude either of them from unreasonably refusing to consent to a request to correct the filed contract to reflect the terms agreed upon by the parties.

Fifth, the need for a supporting affidavit should be eliminated. The circumstances surrounding the error to be corrected can be (and normally are) described with specificity in the required letter of transmittal. This makes the affidavit unnecessary, and this duplicative burden could be eliminated without impacting the ability of the Commission to carry out its regulatory function.

Sixth, the filing fee of $315 applicable to service contract correction requests should be reduced considerably. Given the number of contracts and contract amendments being filed, the high level of the fee is a disincentive to using the correction procedure. If the Commission adopts the other changes set forth above, the processing of service contract correction requests would be simplified, and a reduction in the fee to a more reasonable level (e.g., $50) would be appropriate.

3. Exempt Commodities[2]

The Carriers recommend that the Commission, pursuant to its statutory authority to grant exemptions from statutory requirements, expand the list of commodities which are exempt from the tariff publication and service contract filing requirements of 46 U.S.C. §§40501(a)(1) and 40502(b)(1).

Presently, under the provisions of 46 U.S.C. §§40501(a)(2) and 40502(b)(2), the following commodities are exempt from the tariff publication and service contract filing requirements of the Shipping Act: bulk cargo, forest products, recycled metal scrap, new assembled motor vehicles, waste paper, or paper waste.[3]

This statutory exemption was adopted largely to provide ocean common carriers serving the U.S. trades with greater flexibility to compete with bulk and tramp carriers serving the U.S. and carriers serving ports in neighboring countries, none of whom were required to publish and adhere to tariffs.[4] The same rationale applies to and should be afforded to other, similar commodities.

Many U.S. exports are low-value primary products or agricultural commodities that can be carried in containers or by bulk or tramp operators. Exempting these commodities from the tariff publication and service contract filing requirements would not only expand the number of competitive service

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[2] Dole Ocean Cargo Express is not participating in this section of these comments.

[3] The Commission, by regulation, has exempted other types of cargo from these requirements. See, 46 C.F.R. §§520.13(c) and 530.13(b).

[4] *Report to the President and the Congress of the Advisory Commission on Conferences in Ocean Shipping,* p. 110 (April, 1992).

options for shippers of these commodities, but would reduce the administrative and regulatory cost associated with carrying such cargoes.

The following commodities have the characteristics described above, and the Carriers believe the Commission should exempt these commodities from the tariff publication/service contract filing requirements: Agricultural Products (i.e., grain, soybeans, meal, flour, corn products, animal feed, seeds and food additives); Clay; Plastic Scrap; Hay; and Hides.

B. Carrier Agreements

1. Definition of Low Market Share Agreement, 46 C.F.R. §535.311

The Carriers believe that the manner in which market shares are calculated for purposes of this definition/exemption should be revised slightly.

The exemption from the 45-day waiting period for carrier agreements meeting the definition of a low market share agreement adopted by the Commission in 2004 is, in the eyes of the Carriers, an excellent example of the type of regulation that provides regulatory relief for the industry without adversely affecting the ability of the Commission to carry out its regulatory function.

The Carriers believe the value of this exemption could be enhanced by revising the manner in which market shares are calculated. At present, the market share threshold is applied separately to each agreement sub-trade. This means that a carrier agreement which has a low market share in all but one sub-trade, even a minor sub-trade that is included solely to facilitate transshipment to/from other services (e.g., Malta in an agreement between the

U.S. and the Mediterranean or a small Caribbean island in an agreement between the U.S. East Coast and the West Coast of South America) is subject to a 45-day waiting period.

The Carriers believe that one or two small sub-trades in which the parties happen to have a market share above the threshold should not prevent an agreement from being considered a low market share agreement. Accordingly, they respectfully suggest that the Commission revise the regulation to base eligibility for the low market share exemption on agreement-wide inbound and outbound market shares, without reference to sub-trades. An alternative approach would be to revise the regulation so that an agreement would qualify as a low market share agreement as long as the combined market share of the parties was below the existing thresholds in any agreement sub-trade that accounted for over 20% of the total volume of cargo lifted by the parties in the entire agreement scope during the most recent calendar quarter. Either of these approaches would enable agreements that would qualify as low market share agreements but for one or two small sub-trades to benefit from this exemption. It would also remain consistent with the overall purpose of the low market share exemption and permit the Commission to fulfill its regulatory responsibilities.

2. Non-Substantive Modifications, 46 C.F.R. §535.302(b)

The Carriers urge the Commission to clarify its regulations by adding one type of modification to the brief list of agreement modifications that are exempt from the waiting period requirements under 46 C.F.R. §535.302(b).

Many carrier agreements specify a range in the number and/or size of vessels which the parties are authorized to operate, while setting forth the exact number and size of vessels that will be operated initially. If the parties change the number and/or size of the vessels actually being operated within the specified range, they can implement that change without the filing of a further amendment. However, if they wish to reflect that change in the filed agreement, they should be able to do so without triggering a waiting period.

The Carriers believe that the Commission's regulations should be clarified to provide that an amendment updating the description of the vessels actually being operated is a non-substantive modification that is effective upon filing.

3. Electronic Filing of Carrier and Marine Terminal Operator Agreements

The Carriers urge the Commission to adopt rules and procedures pursuant to which carrier and marine terminal operator agreements can be filed electronically.

Presently, virtually all filings made with the Commission, other than agreement filings, are made electronically (e.g., agreement minutes, monitoring reports and guidelines; OTI license applications). Ironically, the Commission maintains an electronic library of agreements on its web site, so these agreements are retained electronically in any event. Permitting the electronic filing of agreements from the start would reduce the burden and expense of filing for the industry.

C. Rules of Practice and Procedure – Review of Initial Decisions

The Carriers suggest two changes to the Commission's existing rules of practice and procedure as they relate to review of initial decisions on the Commission's own motion.

The Carriers believe that the Commission should revise and expand 46 C.F.R. §502.227(d) to set forth procedures applicable to Commission review of an initial decision on its own motion.

At present, 46 C.F.R. §502.227(d) merely sets forth the means by which the Commission may determine to review an initial decision. It is silent on the procedure to be followed in that review. This has the potential to raise serious due process problems and should be revised.

Under the Administrative Procedure Act, an agency is required to give persons entitled to a hearing notice of the matters of fact and law asserted. See 5 U.S.C. §554(b)(3). An agency is also required to give interested persons the opportunity for submission and consideration of facts and arguments. 5 U.S.C. §554(c)(1). At least one recent Commission decision could be argued to have violated these requirements.

In *Houben v. World Moving Services, Inc. and Cross Country Van Lines LLC,* 31 S.R.R. 1400 (FMC 2010), a Commission settlement officer found a violation of Section 10(d)(1) when no such allegation was made in the original complaint. The Commission determined to review the initial decision on its own motion, then vacated same and reviewed the record *de novo.* The Commission then found a violation of Section 10(d)(1), although no such

violation was alleged in the complaint and no briefs on the 10(d)(1) issue were filed with the settlement officer or the Commission.

Although the Commission found that the respondent in *Houben* had received adequate notice of the allegations made against it (31 S.R.R. at 1404), that conclusion could be disputed. Moreover, the procedure followed in *Houben* has since been criticized by one of the Commissioners. *Atsitsobui v. Global Freightways*, 32 S.R.R. 162 (FMC 2011)(Commissioner Khouri, dissenting).

A review on the Commission's own motion in which the litigants are not provided with notice of the issue(s) under review and/or are not permitted to file a brief with the Commission as part of its review of an initial decision could be subject to challenge as contrary to the requirements of the Administrative Procedure Act cited above. Even if lawful, such a procedure deprives the Commission of the benefit of the adversarial system of litigation. The Carriers believe that decisions issued without the benefit of briefing are less likely to address issues of concern to regulated parties and are less likely to provide useful guidance to those subject to the laws administered by the Commission. As a result, an opportunity to avoid future litigation could be squandered.

Similarly, providing notice to the public of the issues the Commission is interested in reviewing when it determines to review an initial decision could also help to avoid litigation. If two parties to an incipient dispute are aware that the Commission is reviewing an issue germane to their situation, they may hold off on initiating litigation until the Commission has ruled. The

Commission's decision, particularly where informed by the parties' briefs, may resolve such incipient litigation before it becomes necessary to expend the parties' and the Commission resources to resolve it.[4]

For the foregoing reasons, it is common for agencies to provide litigants with notice of the issues being reviewed when an initial decision is reviewed upon the motion of the agency. See, e.g., 29 C.F.R. §§2700.71. It is also common for agencies to permit the parties to file briefs when an agency reviews an initial decision. See, e.g., 29 C.F.R. §§2700.75(a)(1); 47 C.F.R. §§1.276(c); 18 C.F.R. §385.712.

In light of the foregoing, the Carriers urge the Commission to revise 46 C.F.R. §502.227(d) to provide that the Commission will issue notice of the issue(s) to be reviewed by the Commission when an initial decision is reviewed pursuant to the Commission's own motion, and to provide the parties to the matter the right to file briefs with the Commission as part of such review.

The Carriers also urge that 46 C.F.R. §502.61 be revised to require that, when the Commission determines to review an initial decision, it establish a deadline for its own decision. Such deadlines are established for the initial decision and for the Commission's final decision in a matter that is appealed to the Commission by one of the parties. However, these deadlines do not appear to apply when the Commission determines to review a decision on its own motion. For example, in Docket 1989(F), the initial decision was issued on March 29, 2011 and the Commission announced its decision to review the

[4] Such notice would also enable interested parties to seek leave to file an *amicus* brief, should they wish to do so.

initial decision on April 5, 2011. However, as of the date of these comments, no Commission decision has been issued and the parties and the public have no idea what issue(s) the Commission is reviewing or when a decision is likely to be issued, nor have they had an opportunity to file briefs with the Commission in that proceeding.

The Carriers respectfully submit that the adoption of more transparent and timely procedures as suggested above will enhance both the quality and timeliness of the Commission's decision making process, and will afford the interested parties the full measure of due process to which they are entitled under the law.

D. Miscellaneous

The Carriers have two final suggestions that do not fall within any specific program area, but which they nonetheless believe the Commission should adopt.

1. Electronic Payment of Fees

The Carriers urge the Commission to revise its payment procedures to permit payment to the Commission by credit card.

At present, the only means by which persons subject to filing fees (e.g., for OTI license applications, agreement filings, special permission requests, etc.) are able to pay the Commission is via check.

The Carriers submit that permitting payment by credit card would make it easier and less expensive for regulated entities to pay the Commission's fees,

and would result in more satisfied customers, fewer bad checks and improved operational efficiency for the Commission.[5]

Many other agencies have revised their procedures to permit credit card payments. The Internal Revenue Service permits payment of income taxes by credit card. Both the Federal Motor Carrier Safety Administration and the Federal Communications Commission also permit payment of all fees via credit card.

The Carriers urge the Commission to revise its procedures to permit those entities who must paying filing and other fees to do so via credit cards.

2. Webcast of Commission Meetings

The Carriers urge the Commission to make it possible for the public to view Commission meetings live via the Internet.

The Commission, like most agencies, is required to conduct its business publicly, except when certain statutory exceptions are applicable. Accordingly, the Commission holds regular public meetings. However, at most of these meetings, very few persons other than Commission staff and trade press are in attendance.

Most regulated entities, including shippers, ocean carriers, OTIs and marine terminal operators, do not have a direct presence in Washington and are unable to attend Commission meetings in person. The Carriers believe that the Commission could establish stronger contacts with and more effectively communicate issues of concern to regulated or interested entities if

[5] See *Credit and Debit Cards,* GAO Report 08-558, May 2008.

representatives of those entities were able to view Commission meetings via the Internet.

Conclusion

The Carriers appreciate this opportunity to provide their input on the Commission's existing regulations and programs, and the Carriers' representatives are prepared to discuss any of the suggestions contained herein, or any other suggestions the Commission may have, for improvement of the Commission's regulations and programs.

Respectfully submitted,

By: _____

Marc J. Fink
Wayne R. Rohde
Cozen O'Connor
1627 I Street NW, Suite 1100
Washington, DC 20006
Tel.: (202) 912-4800
Fax: (202) 912-4680

Attorneys for the Carriers

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EXHIBIT A

Participating Carrier Agreements and Their Member Lines

Transpacific Stabilization Agreement
- American President Lines, Ltd. and
  APL Co. PTE Ltd. (operating as a single carrier)
- China Shipping Container Lines (Hong Kong) Company Limited
  and China Shipping Container Lines Company
  Limited (operating as a single carrier)
- CMA CGM S.A.
- COSCO Container Lines Company, Ltd.
- Evergreen Line Joint Service Agreement
- Hanjin Shipping Co., Ltd.
- Hapag-Lloyd AG
- Hyundai Merchant Marine Co. Ltd.
- Kawasaki Kisen Kaisha Ltd.
- Mediterranean Shipping Co.
- Nippon Yusen Kaisha
- Orient Overseas Container Line Limited
- Yangming Marine Transport Corp.
- Zim Integrated Shipping Services, Ltd.

Westbound Transpacific Stabilization Agreement
- American President Lines, Ltd. and
  APL Co. PTE Ltd. (operating as a single carrier)
- COSCO Container Lines Company, Ltd.
- Evergreen Line Joint Service Agreement
- Hanjin Shipping Co., Ltd.
- Hapag-Lloyd AG
- Hyundai Merchant Marine Co. Ltd.
- Kawasaki Kisen Kaisha Ltd.
- Nippon Yusen Kaisha
- Orient Overseas Container Line Limited
- Yangming Marine Transport Corp.

Central America Discussion Agreement
- King Ocean Services Limited
- Crowley Latin America Services, LLC
- Seaboard Marine, Ltd.
- APL Co. PTE Ltd.
- Dole Ocean Cargo Express
- Great White Fleet Liner Service Ltd.

West Coast South America Discussion Agreement
- APL Co. PTE Ltd.
- CMA CGM S.A.
- Compania Chilena de Navegacion Interoceania, S.A.
- Compania Sudamericana de Vapores, S.A.
- Frontier Liner Services, Inc.
- Hamburg Sűdamerikanische Dampfschifffahrts-Gesellschaft KG
- Interocean Lines, Inc.
- King Ocean Services Limited, Inc.
- Mediterranean Shipping Company, SA
- South Pacific Shipping Company, Ltd. (d/b/a Ecuadorian Line)
- Trinity Shipping Line, S.A.

Venezuela Discussion Agreement
- King Ocean Services Limited, Inc.
- Seafreight Line, Ltd.
- Seaboard Marine Ltd.
- Hamburg-Südamerikanische Dampfschifffahrts-Gesellschaft KG
- Mediterranean Shipping Company S.A.

ABC Discussion Agreement
- King Ocean Services Limited
- Seafreight Line, Ltd.
- Hamburg-Südamerikanische Dampfschifffahrts-Gesellschaft KG

United States Australasia Discussion Agreement
- Hamburg-Südamerikanische Dampfschifffahrtsgesellschaft KG
- Compagnie Maritime Marfret S.A.
- CMA CGM
- A.P. Moller-Maersk A/S trading under the name of Maersk Line
- Hapag-Lloyd AG
- ANL Singapore Pte Ltd.

Australia New Zealand United States Discussion Agreement
- CMA CGM SA/ANL Singapore Pte Ltd. (acting as a single party)
- Hamburg Südamerikanische Dampfschifffahrts-Gesellschaft KG
- Hapag-Lloyd AG